



DISPUTE RESOLUTION FY2014 DATA

DISPUTE RESOLUTION OPTIONS

- EARLY RESOLUTION
- MEDIATION
- DUE PROCESS
- STATE COMPLAINTS



EARLY RESOLUTION

The Early Resolution Specialists

- Provide technical assistance to parents and schools seeking early resolution of complaints.
- Provide guidance on the formal dispute resolution options available under the IDEA.
- Provide training on Facilitated IEP.



MEDIATION

The Individuals with Disabilities Education Act (IDEA) mandates that states establish procedures to allow parties to disputes involving any matter under IDEA to resolve those disputes through mediation.



MEDIATION

Mediation Facts:

- Mediation is a procedural safeguard
 - Therefore can only be accessed by schools and parents or students who have reached the age of majority
- Mediation is the least formal DR option
- Mediation must be entered into voluntarily by both parties
- Mediation is offered at no cost to either party



MEDIATION

Mediators:

- Independent contractors
- Selected by ADE through the RFP process
- Evaluated through a survey of the parties



MEDIATION

Mediation Agreements:

- IDEA requires mediation agreements to be in writing and signed by the parent and a school representative with authority to bind the agency.
- The agreement must include a statement regarding confidentiality.
- The agreement is enforceable in a State court of competent jurisdiction or in federal court.



DUE PROCESS

Due process provides a means for parents and schools to resolve any matter relating to identification, evaluation, placement, or the provision of a free appropriate public education.



DUE PROCESS

A procedural safeguard that may be requested by parents, students who have reached the age of majority, or a school.



DUE PROCESS

Due Process Facts:

- Arizona has a single tier due process hearing system.
- IDEA requires a mandatory 30 day resolution period before the hearing may take place.
- 45 day hearing timeline begins to run at the end of the resolution period or the day after the parties agree that resolution is not possible
- In a due process hearing, parties have the right to be accompanied and advised by a lawyer and/or persons with special knowledge or training regarding the problems of children with disabilities; and to present evidence and confront, cross-examine, and require the attendance of witnesses.



DUE PROCESS

Due Process Facts:

- During the hearing, the child “stays put” in the last agreed upon placement.
- Burden of proof is on the party seeking relief (*Schaffer v. Weast*).
- ALJ’s final decision must be mailed to both parties and is appealable to a state court of competent jurisdiction or federal court.



STATE COMPLAINTS

- The complaint system is a way for the community to notify the SEA that a public school is or may be in noncompliance with IDEA or a state special education requirement.
- The purpose of the investigation is to identify and correct noncompliance.



STATE COMPLAINTS

- Complaints must allege a violation that occurred not more than **one year** prior to the date the complaint was filed.
- The ADE/DR has **60 calendar days** to investigate a complaint and issue a formal report outlining the findings of fact, determination of compliance or non-compliance, and corrective action, if necessary.
 - ❖ Holidays and school vacations do not affect these timelines.



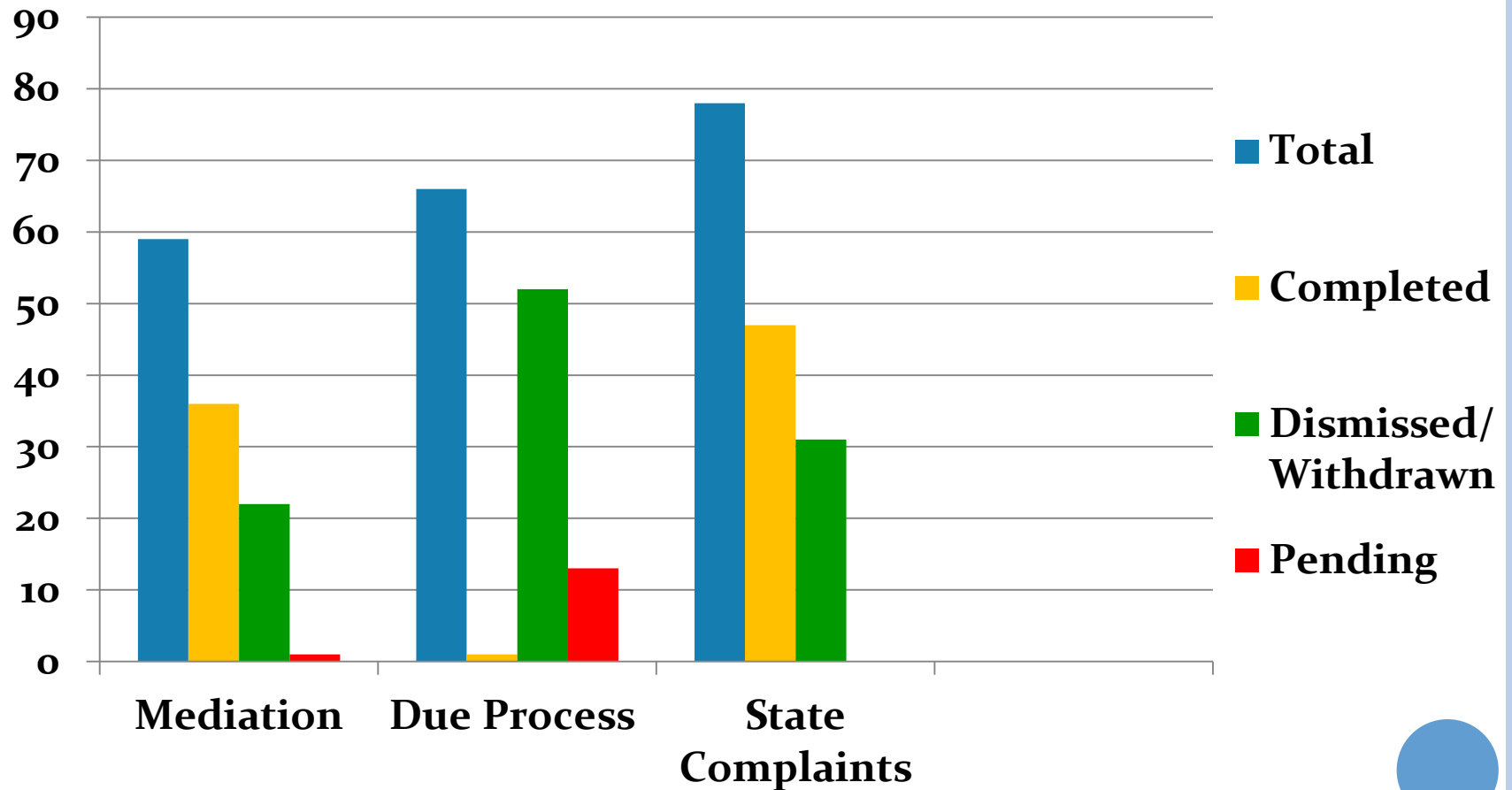
STATE COMPLAINTS

Corrective Action:

- DR is tasked with the identification and correction of noncompliance.
- Correction includes ensuring the student or students who are the subject of the complaint receive(s) appropriate services. (Individual)
- Correction includes ensuring the future provision of a FAPE for all students at the school. (Systemic)
- The Corrective Action Compliance Monitor will work with school personnel to ensure corrective action is completed.
- Corrective **NOT** Punitive
- Enforcement actions, including interruption of IDEA funds, may be undertaken if corrective action is not completed as ordered.

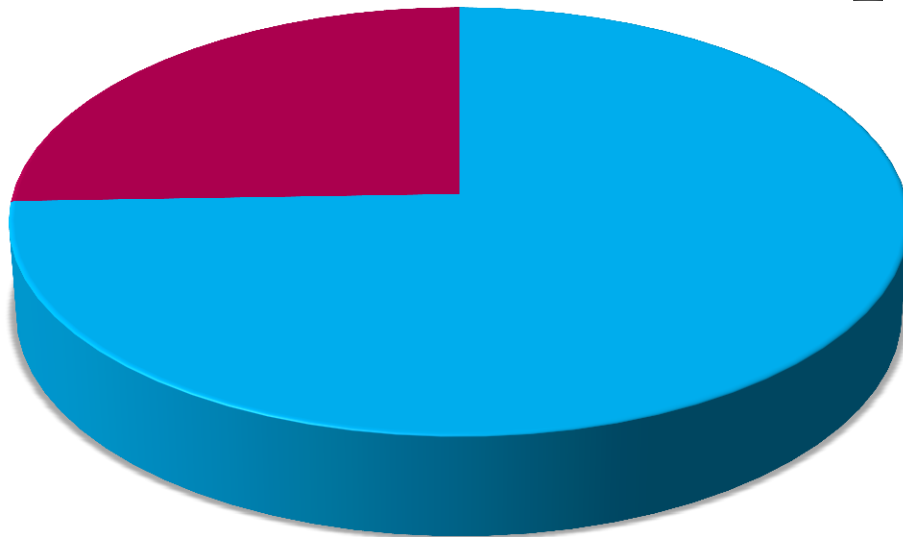


DR PROCESSES COMPARISON



STATE COMPLAINTS

PEA Type



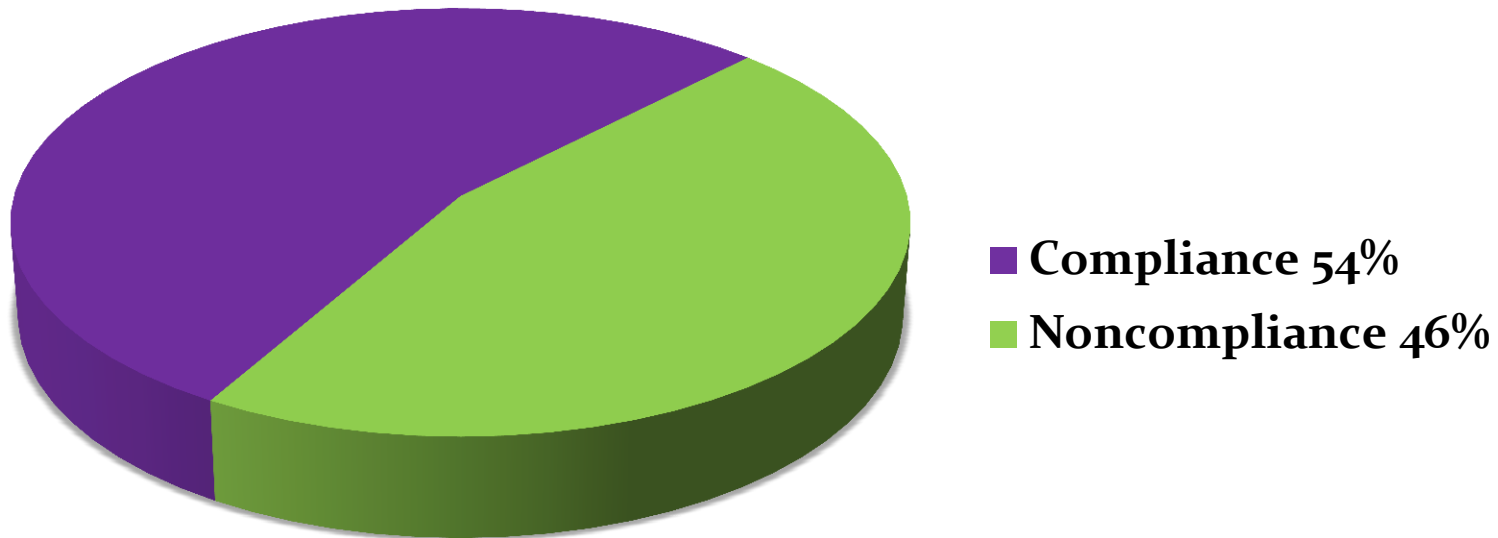
■ Districts 74%

■ Charter Schools 26%



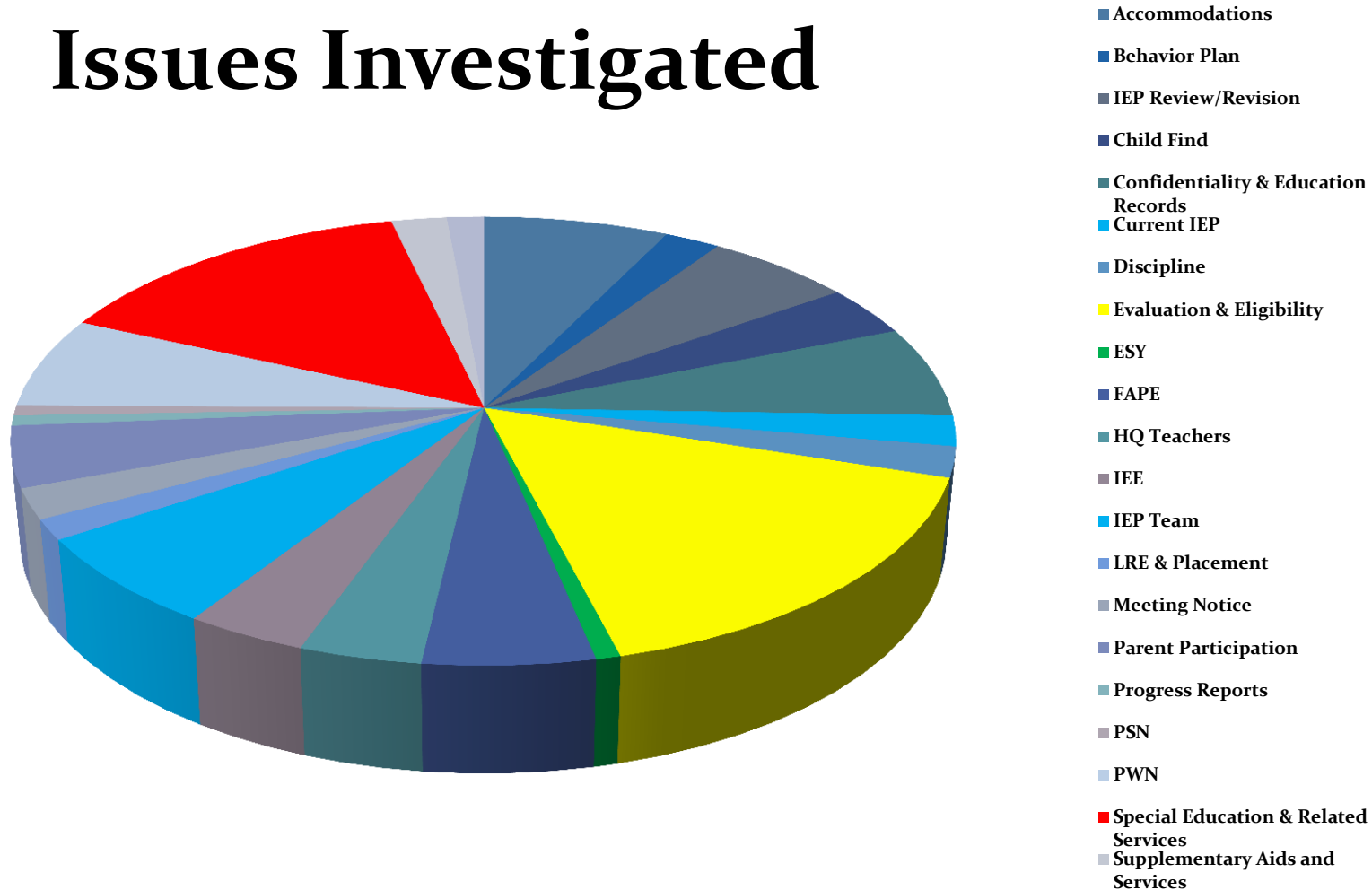
STATE COMPLAINTS

Issue Findings



STATE COMPLAINTS

Issues Investigated



CONTACT INFORMATION

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<http://www.azed.gov/special-education/dispute>

